



Docket No.: 20731 US (C38435/120940)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :

)

Akira ASAKURA, *et al.*

) Examiner: Not Yet Assigned

Serial No.: 09/938,035

) Art Unit: 1651

Filed: August 23, 2001

For: **MICROBIAL PROCESS FOR
PRODUCING L-ASCORBIC ACID, D-
ERYTHORBIC ACID, AND SALTS
THEREOF**

)

New York, New York
May 7, 2002

**RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR
PATENT APPLICATIONS CONTAINING NUCLEOTIDE
SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Commissioner for Patents
U.S. Patent and Trademark Office
Box Sequence
P.O. Box 2327
Arlington, VA 22202

Sir:

This is in response to the NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES ("Notice") mailed March 11, 2002, which set a two-month shortened statutory period to respond. The due date for reply to the Notice is May 13, 2002 because May 11, 2002 falls on a Saturday. 35 U.S.C. § 21(b); 37 C.F.R. § 1.7 and 1.8. Accordingly, this response is timely filed with an executed Certificate of Mailing on or before May 13, 2002. (37 C.F.R. § 1.8). It is not believed

that this response occasions any fee, but should there be any fee, please charge the same to Deposit Account No. 02-4467. Duplicate copies of these sheets are enclosed.

REMARKS

In the Notice, the Examiner asserted that the application does not contain a statement that the content of the computer readable form (CRF) is identical to the paper sequence listing. (See Notice, first page). A copy of the Notice is attached hereto as Exhibit 1. We note that the RESPONSE TO NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES ("Response") filed on November 19, 2001 includes the following statement: "[p]ursuant to 37 C.F.R. § 1.821(f), undersigned counsel hereby represents that, upon information and belief, the content of the paper and computer readable Sequence Listings enclosed herewith are the same and that no new matter has been added." (See Response, page 2). A copy of the Response (**not** including Tabs A, B and C) is attached hereto as Exhibit 2. Accordingly, it respectfully is submitted that the Examiner's assertion is incorrect and should be withdrawn.

The Examiner also asserted that the CRF submitted with the Response filed November 19, 2001 was unreadable. Accordingly, the Examiner required that a substitute CRF be provided. (See Notice, first page). In response to the Notice, a substitute CRF is submitted herewith as Exhibit 3.

Upon information and belief, the paper copy of the Sequence Listing already of record and the substitute CRF presented herewith are the same, and no new matter has been added. (See 37 C.F.R. § 1.821(f)).

It is believed that the substitute CRF provided herewith places the captioned application into compliance with the requirements set forth in 37 C.F.R. § 1.821 *et seq.* Accordingly, entry of the CRF, examination on the merits, and allowance of the claims, respectfully is requested.

If the Examiner wishes to discuss any part of this submission, please contact the undersigned at the number indicated.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, U.S. Patent and Trademark Office, Box Sequence, P.O. Box 2327, Arlington, VA. 22202, on May 7, 2002.



Gonzalo Merino

Respectfully submitted,

By: 

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(212) 692-1800



Docket No.: 20731 US (C38435/120940)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)

Akira ASAKURA, *et al.*)

Examiner: Unassigned

Serial No.: 09/938,035)

Art Unit: 1651

Filed: August 23, 2001)

For: **MICROBIAL PROCESS FOR
PRODUCING L-ASCORBIC ACID, D-
ERYTHORBIC ACID, AND SALTS
THEREOF**)

New York, NY
November 19, 2001

**RESPONSE TO NOTICE TO COMPLY WITH
REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING
NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

Box Sequence
Commissioner for Patents
Washington, DC 20231

Sir:

This is a response to the Notice to Comply with Requirements For Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures ("Notice") mailed September 18, 2001, which set a two-month shortened statutory period for response. The due date for reply to the Office Action is November 19, 2001 because November 18, 2001 fell on a Sunday. 35 USC §21(b); 37 CFR §§ 1.7 and 1.8. Accordingly, this Response is timely filed with an executed certificate of mailing on or before November 19, 2001. It is not believed that this response occasions any fee, but should there be any fee, please charge the same to Deposit Account No. 02-4467. A duplicate copy of this sheet is enclosed.

In the Notice, the Examiner provided notification that the captioned application must be placed into compliance with the requirements of 37 CFR §§ 1.821 through 1.825. A copy of the Notice is attached as Tab A.

In response to the Notice, a paper copy and a computer readable format version of a Sequence Listing are submitted herewith, respectively, as Tabs B and C.

Please amend the application as follows:

IN THE SPECIFICATION

Please replace the Sequence Listing on pages 41-43 of the original application with the Sequence Listing set forth in Exhibit C.

REMARKS

The specification has been amended to conform the application with the formalities noted in the Notice. It is submitted that no new matter has been introduced by the foregoing amendment. Approval and entry of the amendment is respectively solicited.

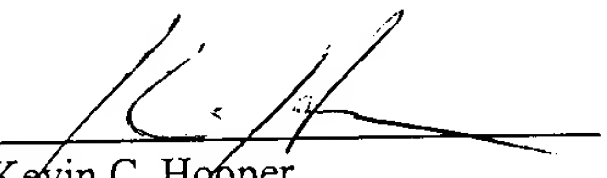
Hard copy and computer readable versions of the Sequence Listing are submitted herewith. Pursuant to 37 CFR §1.821(f), undersigned counsel hereby represents that, upon information and belief, the content of the paper and computer readable Sequence Listings enclosed herewith are the same and that no new matter has been added. It is believed that the Sequence Listing and computer readable form presented herewith (with the exception of the page numbers) are identical to the Sequence Listing originally filed, and place the captioned application into compliance with the requirements set forth in 37 CFR § 1.821. Entry of the Sequence Listing is respectfully solicited.

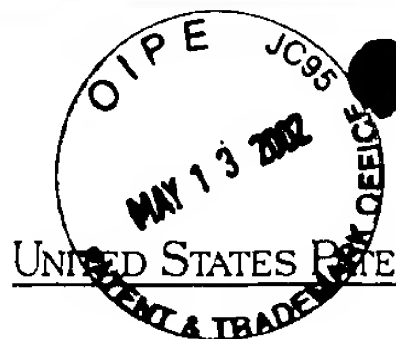
If the Examiner wishes to discuss any part of this submission, please contact the undersigned at the number indicated.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Box Sequence, Commissioner for Patents, Washington, DC 20231, on November 19, 2001.


Kevin C. Hooper

Respectfully submitted,

By: 
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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
09/938,035	08/23/2001	Akira Asakura	20731 US (C38435/120940)

CONFIRMATION NO. 1662

FORMALITIES LETTER



OC000000007611300

Stephen M. Haracz, Esq.
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245 Park Avenue
New York, NY 10167-0034

Date Mailed: 03/11/2002

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES


Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application does not contain a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). Applicant must provide such statement. If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000).
- The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d). Applicant must provide a substitute computer readable form (CRF) copy of the "Sequence Listing" and a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

*A copy of this notice **MUST** be returned with the reply.*



Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE